

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Anthony Fred Martin,	)	Case No.: 4:19-cv-03568-JD
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b>OPINION &amp; ORDER</b>
Curtis Early, Susan Duffy, Jonathan	)	
Bennett, Ms. Beeks, and Captain Lasley,	)	
	)	
Defendants.	)	
	)	
	)	

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This matter is before the Court with the Report and Recommendation of United States Magistrate Thomas E. Rogers, III, (“Report and Recommendation”), made in accordance with 28 U.S.C. § 636(b)(1)(A) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.<sup>1</sup> Anthony Fred Martin (“Martin” or “Plaintiff”), proceeding *pro se*, seeks damages based on alleged civil rights violations pursuant to 42 U.S.C. § 1983. Martin filed a Motion for Summary Judgment on August 27, 2020. (DE 49). Defendants filed a Response to Plaintiff’s Motion for Summary Judgment on September 10, 2020. (DE 53.) Defendants filed a Motion for Summary Judgment on September 15, 2020. (DE 54). On September 16, 2020, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment and motion to dismiss procedures and the possible consequences if he failed to respond adequately to the motion. (DE 55.)

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<sup>1</sup> The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n. 4 (4th Cir. 1984). "The Supreme Court has expressly upheld the validity of such a waiver rule, explaining that 'the filing of objections to a magistrate's report enables the district judge to focus attention on those issues -- factual and legal -- *that are at the heart of the parties' dispute.*'" Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (2005) (citing Thomas v. Arn, 474 U.S. 140 (1985) (emphasis added)). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

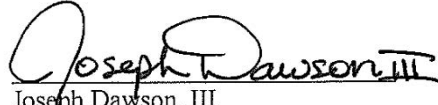
Upon review, the Court finds that many of the Plaintiff's objections are non-specific, unrelated to the dispositive and/or at the heart of disputed portions of the Report and Recommendation, or merely restate his arguments.<sup>2</sup> Accordingly, after review, the Court finds that Martin's objections are without merit. Therefore, after a thorough review of the Report and Recommendation and the record in this case, the Court adopts the Report and Recommendation and incorporates it herein by reference.

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<sup>2</sup> For example, at least three of Plaintiff's six enumerated objections refer to alleged statements made by Defendant Susan Duffy, which are hearsay and generally inadmissible. "It is well established that 'summary judgment affidavits cannot be conclusory or based upon hearsay.'" Sanchez Carrera v. EMD Sales, Inc., 402 F.Supp.3d 128, 140 (D.Md. 2019) (quoting Evans v. Techs. Applications & Serv. Co., 80 F.3d 954, 962 (4th Cir. 1996)). Therefore, these objections cannot go to the heart of the parties' dispute. The remaining allegations similarly mention witnesses, implore the court to conduct an independent investigation, and summarily state he has shown the elements for an eighth amendment violation and deliberate indifference requirements, all of which are non-specific, unrelated to the dispositive and/or at the heart of disputed portions of the Report and Recommendation, or merely restate his arguments.

It is, therefore, **ORDERED** that Plaintiff's Motion for Summary Judgment is denied, Defendant's Motion for Summary Judgment is granted, and that Plaintiff's Complaint is dismissed.

**IT IS SO ORDERED.**

  
Joseph Dawson, III  
United States District Judge

Greenville, South Carolina  
March 10, 2021

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.